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E-filed 2/28/06

6 Attorneys for Defendant, Counterclaimant and Third Party Plaintiff
JDS UNIPHASE CORPORATION
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 ARSAPE S.A.,
12 Plaintiff,

13 v.

14 JDS UNIPHASE CORPORATION,
15 Defendant.

CASE NO. CO3 04535 JW

STIPULATION AND ~~PROPOSED~~ ORDER
RE INSPECTION OF ARSAPE'S
DOCUMENTS IN SWITZERLAND

16
17 AND RELATED COUNTERCLAIMS
18 AND THIRD PARTY COMPLAINT.

Complaint filed: October 7, 2003

1 Plaintiff and counter-defendant Arsape, S.A. (Arsape), and defendant and counter-
2 claimant JDS Uniphase Corporation (JDSU), by and through their counsel, hereby stipulate to the
3 following:

4 1. Arsape has agreed to provide certain documents for inspection at its facilities in
5 Switzerland, which is located at Rue Jardinière 33, 2306 La Chaux-de-Fonds, in the canton of
6 Neuchâtel, on March 10, 2006, provided that all requirements under Swiss law are satisfied. A
7 true and correct copy of Arsape's responses to JDS Uniphase Corporation's Requests For
8 Production of Documents is attached hereto as Exhibit A;

9 2. Under applicable Swiss law, in order to inspect documents in Switzerland, the
10 parties must comply with the Hague Convention of March 18, 1970 on the Taking of Evidence
11 Abroad In Civil or Commercial Matters (23 U.S.C. § 1781), which provides for the appointment
12 of a Swiss commissioner to oversee such inspection. The parties agree that Denis Oswald, Esq.,
13 Place de la Fontaine 4, 2034 Peseux, Switzerland, an attorney and member in good standing of
14 the Neuchâtel bar, will be appointed for this purpose.

15 3. Further, the parties request that the Court sign the attached Letter of Request
16 appointing Denis Oswald, Esq. as commissioner and request that the Clerk of this Court return the
17 Letter of Request to counsel for JDS Uniphase Corporation so that counsel may transmit it to the
18 appropriate federal and cantonal authorities in Switzerland for execution in conformity with
19 Article 2 of the Convention on the Taking of Evidence Abroad in Civil or Commercial Matters.

20 IT IS SO STIPULATED.

21 Dated: February 22, 2006

WINSTON & STRAWN LLP

22 By 

23 NICOLE P. DOGWILL

24 Attorneys for Defendant, Cross-Complainant and
25 Third Party Plaintiff
26 JDS UNIPHASE CORPORATION
27
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1 Dated: February 22, 2006

LAW OFFICES OF GAYLORD A. VIRDEN

2
3 By: Gaylord A. Virden (M2)
4 GAYLORD A. VIRDEN
5 Attorneys for Plaintiff and Cross-Defendant
6 ARSAPE, S.A. and Third Party Defendant
7 DONOVAN MICRO-TEK, INC.

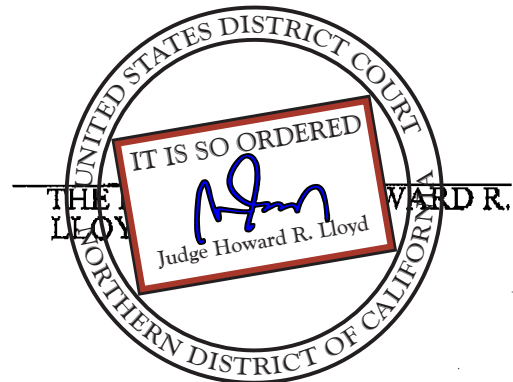
8
9 Dated: February 22, 2006

WINEBERG, SIMMONDS & NARITA LLP

10 By: Margaret Zieglariek
11 Margaret Zieglariek
12 Attorneys for Plaintiff and Cross-Defendant
13 ARSAPE, S.A.

14 PURSUANT TO STIPULATION, IT IS HEREBY GRANTED AND ORDERED THAT:
15 DENIS OSWALD, ESQ., PLACE DE LA FONTAINE 4, 2034 PESEUX,
16 SWITZERLAND, AN ATTORNEY AND MEMBER IN GOOD STANDING OF
17 THE NEUCHÂTEL BAR, IS DULY APPOINTED AND IS HEREBY
18 AUTHORIZED, PURSUANT TO ARTICLE 17 OF THE HAGUE CONVENTION
19 OF 18 MARCH 1970 ON THE TAKING OF EVIDENCE ABROAD IN CIVIL OR
20 COMMERCIAL MATTERS, TO TAKE EVIDENCE IN THE ABOVE-ENTITLED
21 ACTION PENDING IN THIS COURT; AND THE LETTER OF REQUEST IS
22 HEREBY APPROVED.

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24 Dated: February 28, 2006



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